

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

IN RE: : **Case No. 11-30198**

STEPHEN M. NAGEL : **Chapter 7**

AMY W. DEAN-NAGEL :

Debtors : **Judge Lawrence S. Walter**

**AMENDED MOTION OF TRUSTEE TO SETTLE AND COMPROMISE COMBINED
WITH NOTICE AND OPPORTUNITY TO OBJECT**

PLEASE READ THIS NOTICE CAREFULLY

You are hereby notified that papers have been filed with the Court requesting an Order pursuant to the above referenced Motion, Application and/or Objection (hereinafter called the "Motion").

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the Motion, or if you want the Court to consider your views on the Motion, **then on or before Twenty-One (21) days after the Date of Issuance set for below**, you or your attorney must file a written response in accordance with the Court's local rules and filing procedures.

The Clerk of Court's address is:

U.S. Bankruptcy Court, Clerk of Courts
120 W. Third Street
Dayton, Ohio 45402.

You must file the response early enough so the Court will receive it on or before the deadline.

You must also provide a copy of your response to Trustee Paul H. Spaeth at 7925 Paragon Road, Suite 101, Dayton, Ohio 45459 or through the Court's ECF system.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: August 1, 2014

Signature: /s/ Paul H. Spaeth
Name: Paul H. Spaeth
Address: 7925 Paragon Rd., Suite 101
Dayton, OH 45459

MOTION

Now comes Trustee Paul H. Spaeth (“the Trustee”) and hereby submits this Amended Motion of Trustee to Settle and Compromise.

1. On July 11, 2014, the Trustee filed a Motion of Trustee to Settle and Compromise (Doc. 68), which sought approval of a settlement of a personal injury claim. As stated in that Motion, the settlement amount was \$30,000.00, with a total of \$15,717.56 to be disbursed, consisting of the following items:

\$10,000.00	Attorney’s fees to Special Counsel (33.33% contingent fee)
\$ 1,784.69	Reimbursement of expenses to Special Counsel (itemized in Exhibit “B”, attached hereto and incorporated herein)
\$ <u>3,932.87</u>	Subrogation lien to Anthem
\$15,717.56	Total to be disbursed from gross settlement proceeds

2. The Trustee has been informed by counsel for Anthem and special counsel for the Trustee that the subrogation lien amount owed to Anthem is higher than originally anticipated, and is in the amount of \$7,962.28. This amount represents a reduction of the actual amount of \$11,943.00, which Anthem has agreed to accept.

3. Accordingly, the total amount to be disbursed from the gross settlement proceeds of \$30,000.00 hereby is revised as follows:

\$10,000.00	Attorney’s fees to Special Counsel (33.33% contingent fee)
\$ 1,784.69	Reimbursement of expenses to Special Counsel (itemized in Exhibit “B”, attached hereto and incorporated herein)
\$ <u>7,962.28</u>	Subrogation lien to Anthem
\$19,746.97	Total to be disbursed from gross settlement proceeds

4. After payment of the Trustee’s statutory exemption pursuant to 11 U.S.C. §326 of approximately \$3,750.00 it is anticipated that the net settlement amount to the estate will be approximately \$6,503.00, less any expenses to be reimbursed to the Trustee, which will be known at the time that a final report is filed herein.

5. No exemption is to be paid to Debtors, pursuant to an Order denying the personal injury

exemption sustained on June 14, 2011 (Doc. 33).

6. The proposed settlement terms, other than as described above, remain the same as disclosed in the Motion of Trustee to Settle and Compromise filed on July 11, 2014 (Doc. 68).

Accordingly, the Trustee respectfully requests that the Court approve the settlement and compromise as described herein.

Respectfully submitted,

/s/Paul H. Spaeth

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7925 Paragon Rd., Ste. 101
Dayton, Ohio 45459
(937) 223-1655
Fax: (937) 223-1656
spaethlaw@phslaw.com
Trustee

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of August, 2014, a copy of the foregoing Amended Motion of Trustee to Settle and Compromise was electronically served on the following registered ECF participants, electronically through the Court's transmission facilities at their email addresses registered with the Court as set forth below and by ordinary United States mail as indicated below:

Office of the United States Trustee
170 North High Street, Suite 200
Columbus, OH 43215-2417
ustregion09.cb.ecf@usdoj.gov

Jeffrey P. Albert, Esq.
4403 N. Main St.
Dayton, Ohio 45405-5016
albertkrochmalecf@earthlink.net

and that the following persons were mailed a copy by ordinary U.S. Mail addressed to:

Stephen M. Nagel
172 Walnut Grove Drive
Centerville, Ohio 45458

Ryan C. Beck, Esq.
Dyer, Garofalo, Mann & Schultz
Talbot Tower, Suite 1400
131 North Ludlow Street
Dayton, Ohio 45402

Amy Dean-Nagel
716 Maidstone Court
Centerville, Ohio 45458

Anthem UM Services, Inc.
c/o Lawrence & Russell
5178 Wheelis Dr.
Memphis, TN 38117

Kathleen A. Cole, Esq.
Smith, Rolfs & Skavdahl Company, LPA
600 Vine Street, Suite 2600
Cincinnati, Ohio 45202

Orthopaedic Inst. of Dayton
3205 Woodman Dr.
Dayton, ohio 45420-1143

Credit First
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Cleveland, OH 44181

Springboro Counseling
550 N. Main St., Ste. B
Springboro, Ohio 45066

Gemb
PO Box 981400
El Paso, TX 79998

Am-eagle/mccbg/GEMB
Attention: Bankruptcy
PO Box 103104
Roswell, GA 30076

Hsbc Best Buy
Attn: Bankruptcy
PO Box 5263
Carol Stream, IL 60197

American Express
c/o Becket and Lee LLP
PO Box 3001
Malvern, PA 19355

Hsbc/elder
Hsbc Retail Services Attention: Bankru
PO Box 5263
Carol Stream, IL 60197

American Honda Finance
Attn: Bankruptcy
3625 West Royal Lane Suite 200
Irving, TX 75063

Jareds
375 Ghent Rd
Akron, OH 44333

Bank Of America
PO Box 17054
Wilmington, DE 19850

Kohls
Attn: Recovery Dept
PO Box 3120
Milwaukee, WI 53201

Capital One
P O Box 30285
Salt Lake City, UT 84130-0285

Lane Bryant Retail/soa
PO Box 182789
Columbus, OH 43213

Chase
N54 W 13600 Woodale Dr
Menomonee, WI 53051

Macys/fdsb
Attn: Bankruptcy
PO Box 8053
Mason, OH 45040

Chase
PO Box 15298
Wilmington, DE 19850

Patricia A. Dean
10280 Atchison Road
Dayton, OH 45458

Chase Manhattan Mortgage
Attention: Research Dept. G7-PP
3415 Vision Drive
Columbus, OH 43219

PNC Bank
Attn: Bankruptcy
2730 Liberty Ave
Pittsburgh, PA 15222

Chase- Bp
225 Chastain Meadows Court
Kennesaw, GA 30144

Sams Club
Attention: Bankruptcy Department
PO Box 105968
Atlanta, GA 30353

Sears/cbsd
8725 W. Sahara Ave
The Lakes, NV 89163

Sears/cbsd
PO Box 6189
Sioux Falls, SD 57117

Von Maur
Attn: Credit Dept
6565 Brady
Davenport, IA 52806

Wfinb/lanebr
PO Box 182789
Columbus, OH 43213

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/s/ Paul H. Spaeth
Paul H. Spaeth